

CITY COUNCIL PROCEEDINGS

Tuesday, June 7, 2011

6:00 p.m.

1. **CALL TO ORDER AND ROLL CALL**

Mayor Osborne called the regular June 7, 2011 City Council meeting to order at 6:11 p.m. in Council Chambers.

Those present were: Mayor Osborne, Deputy Mayor Wilson and Council Members Ageton, Appelbaum, Becker, Cowles, Gray, and Morzel.

2. **OPEN COMMENT and COUNCIL/STAFF RESPONSE – 6:12 p.m.**

1. Stacey Balcom spoke to the Boulder Creek Festival noting the Great Rubber Duck Race was an illegal gambling operation and requested access to the records for her business, the Boulder Creek Arts Festival. She presented Council with a Notice of Claim.
2. Dave Anderson with the Boulder County Democratic Party asked Council to refer to the November Ballot the proposed referendum on the corporate citizenship issue.
3. Kaye Fissinger also spoke in support of the corporate citizenship referendum and urged Council to move it forward to the November Ballot.
4. Steve Pomerance spoke to the Xcel Franchise issue and thanked Council for discussing the matter in public. He would be outlining questions for Council consideration during the public hearing.
5. David Diamond representing the Fairview Net Zero group urged Council to introduce a fee on single use plastic shopping bags in the Waste Reduction Master Plan.
6. Joshua Brown also urged Council to incorporate a single use fee on plastic bags in the Waste Reduction Master Plan.
7. Jennifer Zhu from the Net Zero environmental club at Fairview also urged Council to consider language reducing the use of single use plastic bags in its Waste Reduction Master Plan.
8. Seth Brigham noted that with only 18 people speaking he thought Council could extend the speaking time to 3 minutes. He also raised concern about open business doors on the Pearl Street Mall which wastes energy when it's 90+ degrees outside. He urged Council to pass an ordinance banning this behavior and follow the Climate Action Plan.
9. Cindy Zou with the Fairview Net Zero club indicated that the group discussed Council's question about newspaper plastic bags and did not feel it would be worthwhile to pursue a ban on newspaper plastic bags as many people re-use those to pick up after their dogs. The group continues to support a ban on single use plastic bags.
10. Tom Asprey spoke in support of the corporate citizenship initiative and urged Council to move this forward to the Ballot.
11. Bruce Gladstone also supported the corporate personhood referendum. He urged Council to place a Resolution on the November Ballot.
12. Laura Spicer, Vice Chair of the Boulder County Democratic Party, urged Council to place the corporate personhood initiative on the ballot. This was a Nation-wide movement to reverse Supreme Court decisions allowing too much corporate influence.
13. Kirsten Walters with the Summit Middle School Net Zero Club urged Council to support a ban on single use plastic bags.
14. Jim Rianoshek from Attention Homes provided an update on the Runaway Homeless

Youth Shelter, the only of its kind in Boulder County. He quoted the County was reporting a 1600% increase in unaccompanied youth since 2009. He urged Council to support funding and the programs.

15. David Eisenstein a real estate and land use attorney speaking on behalf of the Rice Sisters (Agenda Item 7A) urged Council to support staff's recommendation to dispose of the conservation easement.
16. Elizabeth Allen spoke to the Chautauqua item 3D on the Consent agenda and urged Council to consider parking options there. She suggested the City take on more of a role so that the public could have more input. She thought the public would like to see Chautauqua conserved and not built up.
17. Audrey Leggere-Hickey, Leader for District 13A, spoke in favor of the referendum from Citizens United to give voters an opportunity to invoke election change. Please move this forward to the November ballot.

City Attorney Response: - None.

City Manager Response: - None.

City Council Response: - 6:47 p.m.

Mayor Osborne spoke to the Citizens United initiative and noted this would come forward on the July 19 council meeting agenda.

3. **CONSENT AGENDA:** - 6:48 p.m.

- A. **CONSIDERATION OF A MOTION TO APPROVE THE APRIL 26, 2011 CITY COUNCIL MEETING MINUTES.**
- B. **CONSIDERATION OF A MOTION TO APPROVE THE MAY 3, 2011 CITY COUNCIL MEETING MINUTES.**
- C. **CONSIDERATION OF A MOTION CALLING A SPECIAL MEETING AT 6:00 P.M. ON THURSDAY, JUNE 16, 2011 FOR CONSIDERATION OF THE PURCHASE OF THE SCHNELL PROPERTY (CHAPMAN DRIVE).**
- D. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE APRIL 12, 2011 STUDY SESSION ON CHAUTAUQUA.**
- E. **CONSIDERATION OF A MOTION TO ACCEPT THE SUMMARY OF THE MAY 10, 2011 STUDY SESSION ON BOULDER'S ENERGY FUTURE.**
- F. **CONSIDERATION OF A MOTION TO ACCEPT THE 2011 GREENWAYS MASTER PLAN UPDATE.**
- G. **CONSIDERATION OF A MOTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF BOULDER AND BOULDER COUNTY CONCERNING THE FUNDING OF ENERGY EFFICIENCY PROGRAMS.**

City Attorney Tom Carr noted replacement pages 11 and 15 of item 3G were provided at the Council dais.

- H. **CONSIDERATION OF A MOTION GRANTING THE CITY MANAGER AUTHORITY TO APPROVE AN INTERGOVERNMENTAL AGREEMENT FOLLOWING THE GUIDING PRINCIPLES APPROVED BY COUNCIL BETWEEN THE CITY OF BOULDER AND RTD TO CONDUCT SITE PLANNING AND CONSTRUCTION DETAILS FOR THE 3.2 ACRE RTD-OWNED SITE IN BOULDER JUNCTION KNOWN AS THE "BOULDER TRANSIT VILLAGE."**
- I. **SECOND READING AND CONSIDERATION OF A MOTION TO ADOPT ORDINANCE NO. 7793 AMENDING CHAPTER 13-1, "ELECTIONS" B.R.C., 1981, ESTABLISHING THE DEFINITION OF "BALLOT MEASURE" AND TO ESTABLISH THE DATE THAT THE TITLE OF A PROPOSED BALLOT MEASURE IS FIXED FOR PURPOSES OF THE FAIR CAMPAIGN PRACTICES ACT, AND SETTING FORTH RELATED DETAILS.**
- J. **INTRODUCTION, FIRST READING AND CONSIDERATION OF A MOTION TO ORDER PUBLISHED BY TITLE ONLY AN EMERGENCY ORDINANCE CONCERNING CHAPTER 2-7, "CODE OF CONDUCT," B.R.C. 1981 AMENDING SECTION 2-7-15 REGARDING THE DEFINITION OF "CONFLICT OF INTEREST," AND AMENDING SUBSECTIONS (J), (K), (L) AND (M) OF CHAPTER 8-4-10, AND "ADVISORY COMMITTEES" REGARDING THE APPLICATION OF THE CODE OF CONDUCT TO GENERAL IMPROVEMENT DISTRICTS, AND SETTING FORTH RELATED DETAILS.**

Council Member Appelbaum moved, seconded by Wilson to approve Consent Items 3A through 3J with item 3G amended to incorporate replacement pages 11 and 15 provide by the City Attorney's office

- 4. **CALL- UP CHECK IN: - 6:51 p.m.**
None.

ORDER OF BUSINESS

5. PUBLIC HEARINGS:

- A. **SECOND READING AND CONSIDERATION OF ORDINANCE NO. 7794 DESIGNATING THE BUILDING AND PROPERTY AT 1921 PINE STREET, TO BE KNOWN AS THE BELL-BASS HOUSE, AS AN INDIVIDUAL LANDMARK UNDER THE CITY'S HISTORIC PRESERVATION CODE. THE HEARING ON THIS ITEM WILL BE HELD UNDER THE QUASI JUDICIAL HEARING PROCEDURES OF THE BOULDER REVISED CODE. OWNER/APPLICANT: WAYNE ROGERS. – 6:51 P.M.**

City Clerk Lewis swore in all participants in the hearing.

Ex-parte Communications:

Council Member Gray disclosed that she lived in the neighborhood and frequently walked by the property.

James Hewat, Historic Preservation Planner, provided the presentation on the item noting its historic and architectural significance. The home was built around 1880 and was one of the earliest homes in the East Boulder area.

The public hearing was opened:

There being no speakers the public hearing was closed.

Council Member Gray moved, seconded by Osborne to adopt Ordinance No. 7794 designating the building and property at 1921 Pine Street, to be known as the Bell-Bass House, as an individual landmark under the City of Boulder Historic Preservation Code. The motion carried unanimously 8:0; Morzel absent. 6:55 p.m.

- B. **CONSIDERATION OF A MOTION TO APPROVE POLICY, TEXT AND MAP CHANGES, AS PART OF THE 2010 MAJOR UPDATE TO THE BOULDER VALLEY COMPREHENSIVE PLAN (BVCP). THE PUBLIC HEARING ON THIS ITEM WAS HELD ON MAY 24. ON JUNE 7, THERE WILL BE A LIMITED PUBLIC HEARING FOR MEMBERS OF THE PUBLIC TO ADDRESS THE PLANNING BOARD'S ACTION ON MAY 24. – 7:00 P.M.**

Susan Richstone provided an introduction to the item and noted Council received a lime green handout with recommended motion language at the dais.

Chris Meschuk provided the presentation on the item outlining the changes made by the Planning Board. Minor changes were made to the policy and text and the Area III – Planning Reserve Process. Two map changes were

made by the Planning Board to 1) the Goss-Grove boundary and 2) the 1100 block of Pine. He noted the property at 1905 Grove was excluded from the boundary as it was outside of the identified potential historic district.

Mr. Meschuk noted that staff would like the flood policies on page 4 included in the motion language and if approved those would need to go back to the Planning Board for approval. Staff's recommendation was to approve the policy and text changes of the BVCP, excluding section VI 4. regarding the Area II-Planning Reserve and service area expansion process, as amended by the Planning Board; approve proposed text changed to section VI 4. regarding the Area III-Planning Reserve and service area expansion process as amended by the Planning Board and approve the Land Use Map and Trails Map changes as amended by the Planning Board and outlined in the staff recommendation on page 2 of the memorandum.

Planning Board Chair Andrew Shoemaker spoke to the Goss Grove area and noted Planning didn't feel rational answers were given as to why certain homes were included and others excluded from the boundary. The Planning Board also had some process concerns as neighbors expressed they were not fully informed of the boundary expansion. Some concerns were expressed about the Arapahoe area and whether single or multi-family residences were appropriate. Planning Board came together and agreed that Grove Street was the core of the neighborhood and should be designated in the manner recommended.

Council Member Appelbaum asked what Planning Board was striving to do with the area. Mr. Shoemaker noted his sense was that there was a character in the neighborhood for small single-family homes that should be preserved as well as the possibility of affordable housing. Mr. Appelbaum commented that with either zoning, a fair amount of change in that area was possible and asked what was the ultimate goal? Susan Richstone noted the goal was to preserve the existing types of housing and the mix of housing that was currently in the neighborhood. Smaller lot sizes would certainly limit the redevelopment possibilities. Mr. Appelbaum asked if staff would consider it a success if 20 or 30 years from now a number of 2,3 or 4 unit buildings converted back to single family. He also asked if the area could be preserved without a historic district. Susan Richstone commented that overall staff was seeking to preserve overall character rather than historic character itself.

Deputy Mayor Wilson referenced page 104 of the BVCP packet and asked staff to explain how it originally got to option 2. Susan Richstone outlined the three original options and noted that all had different variations. The neighborhood asked staff to keep a larger boundary and not dissect the neighborhood. Option 2 was the closest to the potential historic district.

Council Member Gray noted that the properties that exceeded the density would no longer be non-conforming but they would have some limited

development. She referenced an e-mail from Miles King. Deputy City Attorney David Gehr noted that any redevelopment would fall under the nonconforming use policies.

Deputy Mayor Wilson noted many of the properties were in the flood zone. Deputy City Attorney Gehr clarified that any redevelopment would have to be in compliance with the floodplain regulations. Deputy Mayor Wilson asked if some of those properties could potentially lose value due to the floodplain regulations. This was a possibility.

Council Member Becker spoke to the e-mail from Miles King noting changing the land use could potentially change the zoning and eventually impact a resident's ability to get flood insurance and was a significant concern.

Susan Richstone noted changes to the Boulder Valley Comprehensive Plan could be made via prioritizing items in the work plan or addressing issues during mid-term updates.

Deputy Mayor Wilson asked if there was any discussion about the properties along the West side of the boundary.

Susan Osborne asked about the Planning Reserve noting the changes seemed to be fairly minor and asked for more information about the conversation. Mr. Shoemaker commented that yes, there was comfort among Planning Board members and the word-smithing was just to clarify the process the Board envisioned and thought the new proposal allowed for greater flexibility and yet protected the Planning preserve.

The public hearing was opened at 7:46 p.m.:

1. Jay Madtson, 2202 Grove, raised concern about how the 1905 Grove property was removed from the boundary and felt the meeting last October where property owners were given the opportunity to look at the maps was not adequately noticed to residents. He urged Council to allow the property to remain in its current zoning so that efficiency upgrades could be more easily obtained.
2. Elizabeth Allen urged Council to keep the density low in the area of Goss Grove.
3. Charlie Kane owns property in Goss Grove at 1701 and 1711 18th Street that was carved out of the Planning Board's land use change and he noted he was okay with it.
4. Jerrie Hurd, Chair of the Goss Grove Neighborhood Association noted the boundary suggested by the Planning Board on May 24 excluded three out of four of the current officers of the Goss Grove Neighborhood Association and had no idea that jagged lines would become an issue. Some of those lines were drawn so as not to cause an issue with some of the apartment home owners. They suggested

going down the alley between Canyon and Goss and along Arapahoe.

5. Loren Weinberg, 36 year resident of Goss Grove on 18th Street thought a good plan was in the making. He liked the original plan that Planning staff came up with and thought the area would be preserved better with the original map.
6. Maria Krenz at 1919 Grove Street and secretary of the Goss Grove Neighborhood Association urged Council to discourage density and congestion along Arapahoe. She urged Council to direct staff to explore expanding the area as originally requested to mixed-residential.
7. Mary Hey, a 34-year resident of Goss Grove, would like to see Council direct staff to remove the zig zag lines and expand the boundary.
8. Ruth Blackmore on behalf of Plan Boulder County urged Council to accept the staff's original plan/boundary. Please support the neighborhood's desires for the expanded boundary.
9. Jay Petipice, thought his block was already a high density area and this had not been a detriment to the neighborhood. Undeveloped properties would take a financial hit from this proposal. Please do not pass it now.
10. Ed Byrne, representing owners of 1137 Pine, commented that this rezoning wasn't necessary as virtually all of the properties had been fully developed.
11. Alexandra Besser, owner of the Kirby house at 1109 Pine, spoke in support of the Planning Board's decision.
12. Carol Affleck, Niwot resident, spoke in favor of straight lines and staff's recommendation for the zoning lines.

There being no further speakers the public hearing was closed.

Policy and Text Changes:

Council Member Cowles moved, seconded by Wilson Motion to approve the policy and text changes to the Boulder Valley Comprehensive Plan, excluding section VI 4. regarding the Area III Planning Reserve and service area expansion process, as amended by the Planning Board, including the proposed changes to policies 3.20 and 3.21 on Page 4 of the June 7 memorandum and deleting the bolded added language on Page 13 of the original binder in Policy 1.23. The motion carried unanimously 8:0; Morzel absent. – 8:22 p.m.

Area III Planning Reserve:

Council Member Becker moved, seconded by Appelbaum to approve the proposed text changes to section VI 4. regarding the Area III Planning Reserve and service area expansion process, as amended by Planning Board.

Council Member Appelbaum offered an amendment, seconded by Karakehian to delete language in alternate proposal #1. The motion carried 6:2; Cowles and Gray

opposed; Morzel absent. 8:30 p.m.

Council Member Appelbaum offered an amendment, seconded by Karakehian such that wherever the phrase “unique and significant community opportunity” appeared, the word unique would be deleted but retaining the word “unique” in subpart III. The motion carried 5:3; Cowles, Gray and Osborne opposed; Morzel absent. 8:36 p.m.

Vote was taken on the main motion to approve, as amended the proposed text changes to section VI 4. regarding the Area III Planning Reserve and service area expansion process, as amended by Planning Board. The motion carried unanimously 8:0; Morzel absent.

Map Changes:

Council Member Karakehian, seconded by Appelbaum to approve the Planning Board recommendation #3 except reverting back to the staff recommendation on site 5 and deleting site 6. The motion carried unanimously 8:0; Morzel absent. 9:10 p.m.

Council took a 5 minute recess at 9:20 p.m.

- C. **INTRODUCTION, FIRST READING AND CONSIDERATION OF AN ORDINANCE CALLING A SPECIAL COORDINATED MUNICIPAL ELECTION TO BE HELD ON TUESDAY, THE 1ST DAY OF NOVEMBER, 2011, IN THE CITY OF BOULDER, COLORADO, AND PROVIDING FOR THE SUBMISSION TO THE ELECTORS ENTITLED TO VOTE THEREON OF THE QUESTION OF A FRANCHISE BY THE CITY OF BOULDER, COLORADO, BEING GRANTED TO THE PUBLIC SERVICE COMPANY OF COLORADO, ITS SUCCESSORS AND ASSIGNS, TO FURNISH, SELL, AND DISTRIBUTE GAS AND ELECTRICITY TO THE CITY AND TO ALL PERSONS, BUSINESSES, AND INDUSTRIES WITHIN THE CITY AND THE RIGHT TO ACQUIRE, CONSTRUCT, INSTALL, LOCATE, MAINTAIN, OPERATE, AND EXTEND INTO, WITHIN, AND THREW SAID CITY ALL FACILITIES REASONABLY NECESSARY TO FURNISH, SELL, AND DISTRIBUTE GAS AND ELECTRICITY WITHIN THE CITY AND THE RIGHT TO MAKE REASONABLE USE OF ALL STREETS, PUBLIC EASEMENTS AND OTHER CITY PROPERTY AS HEREIN DEFINED AS MAY BE NECESSARY; FIXING THE TERMS AND CONDITIONS THEREOF; AND SETTING FORTH RELATED DETAILS – 9:30 P.M.**

Tom Carr introduced the item noting that the motion on the floor was to introduce as first reading only the ballot title for an Xcel Franchise extension based upon Council’s direction. A community meeting was planned for June 28 to comment on and discuss any proposal for an Xcel Franchise. Representatives for Xcel Energy were in attendance to provide a presentation.

Paula Connelly, Managing Attorney for Xcel Energy, outlined the proposal

from Xcel Energy. Details would not be discussed as ongoing negotiations with a wind resource were occurring. Xcel's focus was to continue to deliver a safe, reliable energy supply that's affordable and increasingly clean and to serve the community by giving its time and money to Boulder. Xcel also strove to meet the state's renewable energy standard of 30% by 2020. She noted Xcel was on track to exceed the state standard by 2020 and provided some background on Xcel's history in the Boulder community. She noted there was a unique opportunity for a public-private partnership to obtain low cost wind power to enable Boulder to claim a large percentage of its electricity fueled by renewables. It was a time limited opportunity due to pricing dependent upon the wind developer obtaining federal tax credits (expiring December 31, 2012). The tax credits had a history of short term enactments by Congress and then extensions. Xcel had a wind developer who could install new CO wind facilities for Boulder at low cost by PTC deadline. These credits could reduce wind costs in the neighborhood of 30-40%. Possible results would be up to 70% renewables in the first year and up to 90% renewables by 2020. Assumptions were the approval of the franchise and renewable energy financing by Boulder voters and approval of franchise and power purchase agreement by the Public Utilities Commission.

Elements of idea:

- Purchase power agreement for new CO wind facilities
- Xcel energy gets energy; Boulder gets credits (RECs)
- 20-year agreement
- City pays for RECs (difference between cost of wind and Xcel Energy's avoided costs, positive or negative over time)
- If fossil fuel prices rise, City's cost for wind RECs lower
- If fossil fuel prices flat or decrease, city pays more for RECs
- Boulder "locks in" price of low cost wind as hedge against increases in fossil fuel prices.

Boulder would have to pick up integration costs associated with the wind project. Curtailing wind when usage was low would be another cost Boulder would have to pick up (curtailment payments). A small premium of \$2 per megawatt hour would be another Boulder cost. Boulder customers would continue to be eligible for all Xcel programs; localization initiatives were still possible as Boulder offers incentives; the franchise ensured continued reliable electric, natural gas service at reasonable rates from Xcel Energy. Xcel recommended utilizing the Climate Action Plan Tax and bonding to offset the costs.

Ms. Connelly then provided a proposed timeline which included negotiations with Xcel in June, documents filed with PUC for approval in July and available for public review, Franchise and deal approved for ballot in August and voter approvals in November. She urged Council to please pass the franchise on first reading as a placeholder.

Tom Carr indicated that some independent analysis of Xcel's data would be

required prior to even beginning negotiations.

Deputy Mayor Wilson asked if it was wind power that would otherwise not be built in Colorado. This was correct. A resource plan in October would contemplate an additional facility in 2016 to 2018. By Boulder acquiring RECs, the project would not count toward Xcel's renewables.

He then asked what would happen if the deal fell through and the wind facility was not constructed. Xcel was willing to build into the franchise agreement a clause that if the developer faulted on the wind agreement, the city had the option to cancel the franchise agreement.

Council Member Appelbaum asked how the avoided costs were calculated. Ms. Connelly explained that peak periods were higher priced and the most expensive units were replaced first.

Council Member Ageton asked about potential problems with integration into Xcel's system and whether that would be a basis to terminate the agreement. Council Member Gray suggested that if the Public Utilities Commission was a barrier, the franchise could be contingent upon that as well.

Council Member Karakehian clarified that the current wind source program would still be offered. Customers could decrease voluntary participation. Customers could also cover the gap to 100% green through the windsource program. Windsource would still be available to customers outside boulder. There was a concern that people would potentially leave that program.

Deputy Mayor Wilson asked if there would be an opportunity for windsource customers to apply differential to building down the wind project costs. Ms. Connelly responded that Boulder could create a program that allowed this. Boulder might want to consider the option to determine what level of tax applied to what class of customer – there would be flexibility there.

Council Member Cowles asked how Xcel knew the basic pricing of wind was competitive? Xcel would provide the city with data once the wind pricing was received from the wind developer.

Council Member Cowles asked whether Xcel be willing to completely share load information? Ms. Connelly noted that a rough approximation over the last year would be available.

Council Member Gray asked about whether there was a built in profit from the wind farm that Xcel would negotiate. Ms. Connelly noted the deal presented to Boulder had no profit for Xcel energy. Any dollars that Boulder paid would reduce costs to other customers. Xcel benefitted by the renewal

of the franchise and retention of the Boulder load.

The public hearing was opened at 10:29 p.m.:

1. Karey Christ-Janer supported the concept of municipalization and additional renewables in Boulder.
2. Elizabeth Allen asked why just wind....what about solar?
3. Steve Pomerance suggested he would like the Xcel presentation made available to the public. An alternatives analysis would be great. If Boulder were to sign this deal and the PUC turned it down the City would lose a year toward municipalization. Be cautious about what could happen. Think about whether Boulder is on or off the hook around issues around Boulder's coal plants. Billing for DSM programs through the bill is an issue. Xcel would still be running coal plants and Boulder would exchange wind for gas instead of wind for coal. Urged Council to allow the public to see the documents Council has.
4. Julie Zahniser with Renewables Yes urged Council to listen to what citizens wanted. The public wanted to see and hear about all options available for consideration. There was not currently enough information to make a fact based non-emotional decision.
5. Carolyn Bninski indicated she would like the health effects of smart grid to be included in the analysis of these proposals.
6. Ken Bonetti believed that Xcel could do anything it wanted to do in Boulder. Municipalization represented decentralization. For too long large corporations have dominated our lives and restrained our choices.
7. Leslie Glustrom thought the listening comment earlier was important. She felt the Xcel proposal was coming too late and asked the CAO to provide a summary of requests made to Xcel and whether Xcel responded and when. The question was really whether Xcel behaved in a manner that a business partner should. Nothing about reliability had been mentioned.
8. David Miller spoke in support of keeping the option open to work with Xcel. His points were 1) the proposal to buy wind energy at marginal cost was interesting and creative and would add renewable energy over and above current standards. 2) given the costs and scale of providing electricity, the City should stay within scale.
9. Michael Gray was in the wind energy business and thought Boulder's opportunity with Xcel for a blended wind approach was unique. Local control and local jobs would be useful under municipalization.
10. Jim Morris thought Xcel was a bad actor, caused harmful pollutants, and had to be dragged to try to reduce these impacts. Their motivation was to make money not to do good for the environment.

Council Member Gray moved, seconded by Wilson to suspend the rules and continue the meeting at 10:58 p.m. The motion carried 6:1; Karakehian opposed; Appelbaum and Morzel absent.

11. Brad Segal noted the Xcel idea had some merit but this let Xcel set the agenda. Boulder should set its own agenda and not let Xcel take Boulder on a wild goose chase. He urged Caution.
12. Greg Hill cautioned against Boulder putting all its eggs in one basket. It didn't seem wise to rule out municipalization and much of the world was looking at Boulder to see what it would do.
13. Ken Regelson raised concern about the math/data provided. Rules and definitions at the PUC would change over time. He didn't think the City would go for a single source bid for a wind supplier. He urged openness and noted the devil was in the details. The city had to be able to see these and evaluate alternatives – please do so in public.
14. Micah Parkin with 350.org assured Council that residents care very much about these issues. Staying with Xcel reduced Boulder's flexibility for 20 years. She urged Council to consider her points when continuing to weigh options.
15. Eric Blank, experienced wind developer, testified that Xcel's proposal was valid and done elsewhere. He urged Council to keep its options open.
16. Lynn Segal spoke in opposition to an Xcel franchise and urged Council not to pass this on first reading.
17. Karen Worminghaus thought Xcel was coming very late to the table with this proposal and did not have a good track record. She urged Council to keep this in mind and not lose community momentum.

There being no further speakers the public hearing was closed at 11:10 p.m.

Council Member Ageton moved, seconded by Appelbaum to suspend the rules and continue the meeting at 11:04 p.m. The motion carried 7:1; Karakehian opposed; Morzel absent.

Deputy Mayor Wilson commented the proposal was intriguing. It was late for it to come in but also late for evaluation of a municipal utility. He would like staff to talk with Xcel about the billing (currently 1 line on bill for carbon tax). He would like to see staff negotiate not more than three lines on the bill that could be used for carbon tax, the city's own on-bill financing or something similar to give Boulder the ability to create new programs.

Council Member Appelbaum would support a placeholder but the timing was an issue. Details must be known in time for the meeting in July and must be transparent. He was concerned about high risk and little control; calculation of avoided costs were critical and how it morphed over time in ways Boulder didn't control was an issue. The 20-year agreement was too long. He would like to see a comparison of what could be done under municipalization vs. under a franchise agreement and vice versa.

Council Member Ageton spoke to the franchise terms and would seek as much flexibility as possible for Boulder given how rapidly the energy field was changing. Shared risk was an issue. She sought clarity about conditions under which Boulder would be held accountable for curtailment costs. She was concerned about the megawatt premium and what enforcement provisions would be built into the agreement.

Mayor Osborne agreed with Council Member Ageton and Appelbaum's comments. She couldn't imagine putting the old franchise on the ballot. She would want to see a proposal come back that pared the franchise agreement with the wind purchase deal. A municipalization option included would be useful. City Attorney Carr noted an outline of what it would look like on the ballot would come back to Council at the next meeting. Mayor Osborne agreed the franchise term was important. Ideally a shorter term would be good. An independent analysis of the proposal would be useful in supporting staff in its negotiating efforts. She could see both proposals going on the ballot.

Council Member Gray agreed with all the comments so far except she thought at some point Council would have to choose what would be put on ballot – not both. She wanted a very clear timeline/deadline that a proposal be provided, preferably by June 28 so that the City could do an analysis. Negotiating points that weren't included in the previous franchise would be useful to look at again. She was not happy with the standard written franchise. The enforcement clause was a good idea. She asked if Boulder would be on or off the hook for Coal plants. She would like to see the Demand Side Management programs built in. What are the risks and benefits of all the options? How does 200 megawatts equal 50% renewables? Why is it a single source for purchase of wind? What assumptions are made for their modeling? It was important to get solid numbers for the public. What would Boulder ask its residents to pay?

Council Member Becker noted having two items on the ballot made her nervous. It was important to determine rates and reliability #1 and renewables #2. She wanted to know all the risk factors. In the beginning years this would be a big cost to the City and it would be important to understand that more.

Council Member Karakehian expressed disappointed in the position the City was in at this point in having to make rushed decisions and trying to put everything together in a small period of time. The Xcel proposal was intriguing and he would like to understand if there was a way to hedge the downside risk if concerned about prices. He was concerned about the City being unprotected. Xcel's numbers were substantially under what some people think they should be and this was a concern. He wanted to understand why someone would do this program and continue with the Windsource program? He suggested a substantial amount of money could be used some way to offset costs. He didn't understand why Boulder would pay any premium if paying regular rates. There was no risk to Xcel or other rate payers around the state. He was concerned with the length of the franchise. He suggested both proposals should be on the ballot. If one were turned down, then where would Boulder be without both options available to residents?

Council Member Cowles appreciated the proposal. He commented that Boulder wouldn't own any asset (wind farm) after 20 years. He would like to see transparency about money and information that Boulder hasn't had in past franchises. Regarding paying a price for generation that include avoided cost, curtailment, integration etc...what about splitting out the cost of

transmission. It may be a good place to compartmentalize so that at the end of another contract period the City would know more about separate parts. The avoided costs defined specifically with respect to gas generation and not coal generation. He didn't want to support coal plants, especially the new one in Pueblo. Disclosure of energy information was a concern. He was astonished Xcel couldn't Council with more detail what the energy profile of city looked like. Enforcement was important and he did not want to see it PUC dependent. He would like to see Boulder able to wheel in power from its own power stations, solar gardens so that power was not sold at wholesale and bought back at retail. He would like to see the netmetering restriction of 120% lifted. It was important that the franchise speak to rolling out and paying for plug-in hydroelectrics. Some part of cash flow should go to education and outreach.

Council Member Ageton moved, seconded by Appelbaum to introduce and order published by title only Ordinance No. 7796 calling a special coordinated municipal election to be held on Tuesday, the 1st day of November, 2011, in the city of Boulder, Colorado, and providing for the submission to the electors entitled to vote thereon of the question of a franchise by the city of Boulder, Colorado, being granted to the Public Service Company of Colorado, its successors and assigns, to furnish, sell, and distribute gas and electricity to the city and to all persons, businesses, and industries within the city and the right to acquire, construct, install, locate, maintain, operate, and extend into, within, and throw said city all facilities reasonably necessary to furnish, sell, and distribute gas and electricity within the city and the right to make reasonable use of all streets, public easements and other city property as herein defined as may be necessary; fixing the terms and conditions thereof; and setting forth related details. The motion carried unanimously 8:0; Morzel absent. 11:44 p.m.

6. **MATTERS FROM THE CITY MANAGER:**

A. **LONGS GARDENS POLICY DISCUSSION – 11:49 P.M.**

This item was postponed to the Special Council Meeting on Thursday, June 16, 2011.

7. **MATTERS FROM THE CITY ATTORNEY: - 12:00 a.m.**

A. **CONSIDERATION OF A MOTION TO AUTHORIZE THE DISPOSAL OF APPROXIMATELY ONE-THIRD ACRE OF RICE SISTERS' OPEN SPACE LAND LOCATED AT KNEALE ROAD AND ELDORADO SPRINGS DRIVE.**

Council Member Appelbaum moved, seconded by Ageton to authorize the disposal of approximately one-third acre of Rice Sisters' open space land located at Kneale Road and Eldorado Springs Drive.

8. **MATTERS FROM MAYOR AND MEMBERS OF COUNCIL:**

None.

9. **PUBLIC COMMENT ON MATTERS:**

None.

10. **FINAL DECISIONS ON MATTERS:** Action on motions made under Matters.

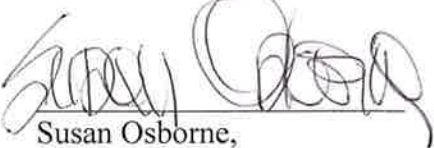
Vote was taken on the motion to authorize the disposal of approximately one-third acre of Rice Sisters' open space land located at Kneale Road and Eldorado Springs Drive. The motion carried unanimously 8:0; Morzel absent.

Vote was taken on the motion to approve Consent Items 3A through 3J with item 3G amended to incorporate replacement pages 11 and 15 provide by the City Attorney's office. The motion carried unanimously 7:0, Cowles and Morzel absent.

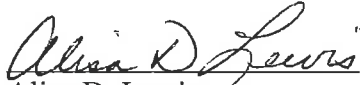
11. **ADJOURNMENT**

There being no further business to come before Council at this time, BY MOTION REGULARLY ADOPTED, THE MEETING WAS ADJOURNED AT 12:03 A.M.

APPROVED BY:


Susan Osborne,
Mayor

ATTEST:


Alisa D. Lewis,
City Clerk